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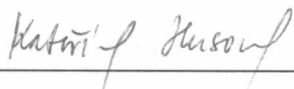
**THE DEMOCRATIC DEFICIT AND THE  
EUROPEAN IDENTITY AS  
QUESTIONABLE ISSUES IN THE  
EUROPEAN UNION**

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## PROHLÁŠENÍ

Čestně prohlašuji, že jsem diplomovou práci na téma The Democratic Deficit and the European Identity as Questionable Issues in the European Union zpracovala samostatně a vyznačila v ní veškeré použité zdroje informací.

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## LIST OF ABBREVIATIONS

CFSP	Common Foreign and Security Policy
EP	the European Parliament
EU	the European Union, the Union
JHA	Justice and Home Affairs
MEP	a member of the European Parliament
MLG	the multi-level governance
NGO	non-governmental organisations

## INTRODUCTION

Among the European integration scholars, it is generally believed that the European Union is facing a so-called legitimacy crisis. The deficit of democratic legitimation is also largely perceived by politicians in the Union, as well as by the European public. The causes of the democratic deficit date back to the very onset of the integration process<sup>1</sup>; however, in the 90s when a tough ratification of the Maastricht Treaty showed a shift in public opinion, the crisis became apparent. The prevailing 'permissive consensus'<sup>2</sup>, under which the decision-makers enjoyed merely unconditional support and public loyalty, ceased to exist. As a result, the public refused to tolerate the elite-based decision making. An assumed source can be viewed in terms of functionalism as a result of the integration spill-over into 'high politics'. The more influence has the Union executed over the everyday life of ordinary citizens, the more legitimacy has it needed. The occurrence of legitimacy deficiencies, which is closely linked to the deficit of democracy in European polity, has persisted and represents one of the most urgent challenges for the contemporary Europe. It is widely believed that the significance of the democratic deficit problem is aggravated by the fact that it deals with substantial question about the EU, rather than single procedural formalities. What does the democratic deficit mean? To which areas of the European polity does it relate? In what ways and to what extent can it be reduced?

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<sup>1</sup> To that, Warleigh pertinently states that the Union has never been democratic (2003, p. 1).

<sup>2</sup> For definition see Inglehart, R. (1997), quoted e.g. in Lord (1998).



What is the role of public in the process of democratization? This paper tries to provide with answers for these and related questions.

The issue of democratic and legitimation deficit has been broadly described and discussed in scholarly literature by political scientists from the international academic environment, which does not, however, apply to the academic background of the Czech Republic. Hence, the intention of this paper is to provide an overview of the issue. This paper aims at two main objectives: first, to provide with a comprehensible insight into the issue; second, to devise instruments to increase accountability and legitimacy of the EU and assure the public identification. The method used in this paper will be a theoretical analysis<sup>3</sup>. This paper does not set a goal to provide with a chronological overview of practical steps adopted in order to reduce the democratic deficit, or the historic development of democracy in the Union.

The issue of legitimacy deficit can be viewed from two standpoints. Firstly, there is an institutional approach, which studies the democratic deficiencies in the European institutions, in procedures of the decision-making process and in the representation of European interests within the whole European polity. Secondly and closely related, a question of public identification with the European polity, generally presented as the common political identity, relates to the democratic challenge of the EU. A closer explanation of the 'technical' approach will constitute the first part of this

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<sup>3</sup> The method has been changed in comparison to the project paper. The theoretical analysis suggests more suitably what is involved in this paper. Although I present with theories of different authors, I do not compare than using the established methods in political science.

paper. In the second part, I will present with theories and instruments suggesting ways to reduce the democratic deficit. The assessment of potential impacts will follow. In the third part, the issue of European identity will be analysed. The definition of ways of how the European identity might be constituted, and a description of current state of affairs will be outlined in the fourth part.

## **1. THE INSTITUTIONAL SIDE OF THE LEGITIMACY CRISIS**

### **1.1 Explaining the democratic deficit**

According to Lord, there are two implicit definitions of the term democratic deficit in literature. First, the deficit is reported as a “gap between standards of democratic practice in national and Union politics” which “arises when powers are transferred from ‘more democratic’ national institutions to ‘less democratic’ European ones” (1998, p. 14). In the second definition, the deficit is identified as “a gap between ideals and practices” (*ibid*), which stem from the ever-present contradiction between democracy as an ideal and as a practise developed in different political systems. As these two definitions of the term did not suffice to define the problem, Lord offers his own definition stating “a political system should correspond to a felt sense of political identity” (1998, p. 15). In general, Eriksen and Fossum (2000) characterize the democratic deficit as a multifaceted problem with deficiencies in representation and representativeness, accountability, transparency, and legitimacy. The democratic deficit refers to the insufficiency of democratic governing.

Similarly, the lack of accountability, reported as the legitimization deficit, relates to deficiencies in the control of governing.

Different scholars have observed the core of the democratic deficit and the related issue of the legitimacy deficit in different aspects of European governing. As Karlas (2005a) puts it, the democratic deficit can be generally detected at four stages of the decision-making process: first, a stage of setting elementary system features of the European framework, i.e. the balance and division of powers among the European institutions; second, the stage of public control; third, a level of public participation; and fourth, a question of objectives and policies of the EU.

Lord and Magnette (2004) summarize four vectors (indirect, parliamentary, technocratic and procedural), which together describe the issue of democratic deficit. Within the concept of indirect legitimacy, which relates to the intergovernmental paradigm in the international relations, the Union is legitimized through the legitimacy of its Member States and is dependent on its own ability to fulfil their requirements and respect their sovereignty. A national representation in a Council, which is approved by national governments, is a means to assure a representation of all Member States according to the parliamentary legitimization. At the same time, elections to the European Parliament establish a representation of a border-crossing *demos* in the European political arena. The dual legitimization of the Council and the EP may introduce a system of checks and balances and imply the federalist view of the Union as a constitutionally based super-state. The technocratic legitimization suggests that

a determining factor of legitimacy is the system's ability to accommodate needs of public and promote welfare of the overwhelming majority. Under the procedural legitimation, such features as 'transparency', 'balance of interests', 'proportionality', 'legal certainty' and 'consultation of stakeholders' (p. 187) must be guaranteed in order to achieve legitimation. In other words, under the procedural legitimation an unconditional respect for rights and readiness to enact new law are principal rules for the system as they bring control and enforcing mechanisms into the system.

Scharpf (1998) presents two dimensions of legitimacy: the input (governing *by* people) and the output legitimacy (governing *for* people). Under the former, governing is legitimate as far as it reflects the will of people, well captured by the act of participation. In case of the latter, governing is legitimate as far as it increases welfare and general well-being. Scharpf sets these two concepts as a trade-off: each can be only extended on the account of the other one. Applied to the contemporary state and needs of the European integration process, he claims that emphasis on the input legitimation can even deepen the democratic deficit as the diversity and population rate on the EU territory are constantly rising. In sum, Scharpf argues that there is no reason to assume that the output dimension, i.e. the focus on institutional capacity and effectiveness, could not legitimise the EU.

Warleigh (2003) identifies four strategies to reduce the democratic deficit: transformation of national sovereignty; institutional change; change in the scope and power of the Union; the creation of European *demos*. As for the last,

Warleigh believes that the promotion of common political identity among the European citizenry is the key to European legitimacy. He suggests citizens should get engaged in the 'active' European citizenship and concentrate their preference in order to lead reforms.

Under the term 'composite democracy' Héritier understands a 'patchwork of different strands of democratic legitimacy' (2001, p. 3) and sets five levels where it is to be found: (1) vertical (citizens – institutions); (2) executive (delegates of national governments); (3) horizontal (mutual control among Member States); (4) experts and delegates in policy networks; and (5) safeguard of individual rights. The second and fourth strand are, according to Héritier, immune to transparency expansion. In contrast, the crucial stage to enhance accountability is formal decision-making. Albeit different the insights of scholars may seem, it is obvious that many of them correspond, or overlap. In the next part, I will analyse gaps in institutional legitimacy by using three criteria (referring to the Karlas' (2005a) view); first by outlining the division of powers, second by focusing on public participation, and third by examination of public control.

## **1.2 Identifying democratic deficiencies stage by stage**

### **The balance of powers**

The division of powers in the horizontal perspective on the European level does not duplicate a division common in national political systems. Within the dual executive, also known as the 'tandem principle', the Council and the Commission share powers of agenda setting and

implementation control. The European Council stands on the top of the system of agenda-setting when defining general political guidelines with at least quarter-year periodicity. The Council specifies long and medium-term agendas, organizes Treaty reforms and delegates tasks on the Commission. The presiding Member State has a great opportunity to influence the negotiated issues, even though a certain part of agenda is inherited from the former Council Presidency and the ability of enforcing issues depends on the state's experience and the population number. Coming to the areas of activity, the Council retains control in the two pillars of Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA). Whereas Commission's powers are essential in the first pillar so it initiates most policies and handles the daily business of the EU; its powers in the CFSP and JHA are rather minor<sup>4</sup>. The distribution of executive power, as briefly outlined above, implies the absence of a single chief executive accountable to a single body. On the other hand, it enables extensive deliberation and compromise in the adoption and implementation of the EU law.

Examining European legislation, some misbalances apply. Even though the legislative power is already shared among the Council and Parliament, the legislative initiation remains to be the exclusive right of the Commission, which executes its agenda-setting role in this way. Despite the fact that the Commissioners are obliged to act as a united, impartial body, in fact, the power of Commission varies in relation to:

the personality of the President; the distribution of

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<sup>4</sup> The main provision allows the Commission to question the Council in CSFP and JHA (TEU, 1992, Art. J.8[3]).

portfolios; the grouping of commissioners into subcommittees; jurisdictional divisions between the departments of the Commission known as Directorates General (DGs); patterns of continuity among senior officials; and relationships between permanent officials and temporary political advisors (Lord, 1998, p. 24).

While the office period of the EP is stated on five-year periodicity, the Council variation depends on the national elections and ranges from period of 3-5. The discrepancy might aggravate public control. Considering the Council and its subordinated bodies, public control is to a large extent impossible. The national governments delegate their representatives to the Council bodies, such as COREPER; however, the officials then remain out of range of public control. The nature of their tasks, which is rather technocratic, or highly professional, prevents from legal breaches. On the other hand, the system is believed to be bureaucratic and costly<sup>5</sup>. Political questions are, in comparison, referred to the highest levels of the Council and are approved by national government's representatives. However, the highest representatives of member governments, such as ministers, only deal with a little part of decision. The following figures reported by Hayes-Renshaw and Wallace well illustrate that: "70 per cent of decisions are 'settled at working group level'; 15-20 per cent by COREPER (...) and only 10-15 per cent by ministers" (Lord, 1998, p. 25). The reason for the disproportion can be seen in the nature of decisions taken, which is - especially under COREPER II - rather technical and lacks political relevance. These operations can be compared to the those in nation-states. On

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<sup>5</sup> Taking into account the Union's administration expenditures, the matter looks more optimistic. The costs of bureaucratic machinery approximate less than 6% of the EU budget (EU Budget in detail), which is by far lower than administration cost of Member States.



the national level, many decisions are made in particular committees, but they mostly have to be approved by the entire parliamentary chamber. All in all, for the foregoing reasons such as vast complexity and technocratic nature, it is not feasible to adopt all the Council decisions at the highest level of representatives, which does not necessarily mean the reduction of legitimacy. The involvement of many actors in the decision-making process prevents from a situation in which politically sensible questions are approved by those who are not entitled to do so. Be it not enough, the extension of qualified majority voting<sup>6</sup> in the Council limited a veto right of the Member States. On the other hand, a benefit from the limitation is an increase in efficiency.

As for the co-legislator, the European Parliament, a substantial increase of powers has been reported since the Single European Act in 1986. In the contemporary state of affairs – under the co-decision procedure – the EP stands equal with the Commission and has a right to over-vote it. However, the consultation procedure is still applied in a wide range of areas. As the following phases of legislation process come into questions, the implementation deficit<sup>7</sup>, well perceived by the watchdog of implementation process (the Commission), reduces the democratic credits of legislation adopted. The legal compliance rests in Member State's discipline and is enforced by the Commission, optionally by the ECJ. Whereas the Council is the chief in European law implementation, which may possibly contribute to the number of implementation infringements, the task of the Commission

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<sup>6</sup> The Nice Treaty (2001)

<sup>7</sup> See e.g. Cini (2003), Richardson (2001).



consists of monitoring the everyday compliance with its directives and regulations.

Having briefly outlined the horizontal distribution of powers, the vertical division of powers is rather underdeveloped. Not only has the European Union never stated clear limits of its powers, but it proved to be spontaneously expanding into many areas quite remote from the initial activity. An assumption to separate the spheres of influence is a definition of the entity (the EU) and its tasks. Restrictions in powers refute a notion to handle the EU as a nation-state. Despite the subsidiarity principle, the definition of rights and powers remains vague.

As suggested above, in the European decision-making process, many difficulties can be spotted. According to Lord, there is one overarching and common to all of them. The methods of approving decisions are largely related to the question of the nature of Union, which remains open and unanswered. If the Union can currently be defined as 'more than a Treaty and less than a constitution', it does not explicitly imply any institutional forms, which are commonly applied in contemporary political systems.

### **Input dimension: public participation**

The direct public participation in the decision-making process of the European Union is largely relegated to the once-in-five-year elections to the EP. In the section on public participation, many objections weakening the credibility of European elections will be presented. Undisputedly, it remains a very powerful device, which substantially reduces the legitimacy claims. As far as the indirect legitimation is

concerned, a common procedure of authorizing applied mainly to Treaty changes is the parliamentary approval, in which the public is indirectly involved by electing national representatives. In some Member States, the national parliaments are obliged by the constitution to hold a referendum on essential questions such as Treaty changes, or the enlargement of the Union. However, in other cases, it remains in national parliament's realm to make decision on whether a question on stage necessitates asking the public for its opinion in a referenda.

Within the rotating Presidency of the Council, there is a unique chance for each Member State to shape the Union agenda and introduce nationally important questions. States are aware of the significance and opportunity given by Presidency and prepare long in advance for their office. Though a part of agenda comes as 'inherited', the Member States highlight the nationally important issues and bring the attention of other States to it. Nevertheless, as the possibility of Presidency repeats only once in 12.5 years<sup>8</sup>, it can rather be considered an exceptional and infrequent means of influencing the European agenda. Moreover, the experience of each State plays a role in terms of their activity, dealings management and familiarity with the European administration machinery.

The last, but not least, means of contributing to the decision-making in the European polity are the democratic intermediaries such as political parties, interest and pressure groups, professional associations, trade-unions, policy

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<sup>8</sup> A prospective prolonging of this period may come after the accession of Bulgaria and Romania in 2007 unless any Treaty changes are adopted.

networks and NGOs. If we accept the model of governance for EU polity (see section 2.3), the option to execute influence by forming concentrated interests provides an effective means to legitimise the decision-making process. On the other hand, supposing only a specific part of public is capable to take action and aggregate interests, the notion of civic society and opportunities it offers remains an elite-based participation.

Finally, the European institutions can engage regional or local authorities directly in the decision making process. However, this can be viewed as a result of the process of devolution and gradual regionalization in a nation-state, rather than the EU's interest in the promotion of democracy.

The engagement of public in both stages of control and participation presupposes that the public is well informed and motivated to take action. A widely understood claim linked with the democratic deficit suggests that the European public is poorly, if at all, informed about the European affairs<sup>9</sup>. The reasons of the unfavourable reality are particularly based in the institutional setting of the European polity, which is too complex and remote and, thus, hardly understandable to ordinary citizens. A considerable fault, however, rests in the information deficit and insufficient level of communication (Karlas, 2005b). The Union scantily manages to spur general debate and involve all groups of public<sup>10</sup>. The EU fails to initiate a broad discussion in the contemporary questions such as the unemployment, immigration, globalization, which concern the daily business of every citizen.

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<sup>9</sup> Eurobarometer (2001).

<sup>10</sup> A well illustrating example is provided by the look on the discussion accompanying the Convent on Future of Europe, which did not provoke broader public reactions.

### **Output dimension: public control**

In this part, I will consider various channels, direct or indirect, by which public can hold the politicians accountable. In representative (parliamentary) systems, the executive power is controlled by the elected representatives, which – as we shall see – is not really the case of the EU.

With the Maastricht Treaty and further the Amsterdam Treaty, the European Parliament has entered the appointment procedure, first by a 'consultation' right, then by right to vote on the Commission. Before the act of approval, the President candidate consults Member States in question of their candidates for Commissioners and portfolio allocation. As a result, the EP can use a veto over the suggestion of the 'electoral college' made of Member States (Hix, 1999, p. 47). The EP's 'take it or leave it' option, as Lord calls it (1998, p. 39), avoids, however, that the EP can influence the portfolio allocation, or the choice of particular Commissioners. The legitimisation link between the voter and the Commission is thus executed through their national governments, rather than through their representatives in the EP.

In the phase following the Commission's composition, the European Parliament is equipped with only limited means to control the Commission. The Parliament's right to dismiss the Commission is considered a drastic measure and the EP only uses it, if at all, as a threat<sup>11</sup>. In fact, the Parliament has not made use of this power in the history<sup>12</sup>. The right of withdrawal, however, only applies to the Commission as a

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<sup>11</sup> Hix compares this right to the impeachment procedure in the USA, rather than to a common parliamentary control (1999, p. 47).

<sup>12</sup> The only Commission of J. Santer, which did not finish its period, resigned 'voluntarily' under the threat of Parliament's withdrawal in 1999.

body again<sup>13</sup> so that no single Commissioners can be held accountable, or withdrawn in case of serious wrongdoing or incapability to serve in their office. Additionally, whereas the approval of the Commission needs only a simple majority in the Parliament, to withdraw it, the EP must reach a two-thirds majority of all MEPs, which can eventually also complicate the withdrawing procedure. Among the other EP's channels to influence the Commission and hold it accountable, a motion of censure has proved to be efficient as it pressures the Commission to accountability and has become a widely used procedure. Comparing the EU's shared executive to the national systems, some differences emerge: (1) the public does not hold a direct opportunity to approve basic political changes as the periodical political cycle and a government alternation are absent, (2) the Union lacks a unified political leadership – a chief executive, which is likely to worsen public understanding of EU policies. Instead, the system of shared executive enables deliberation and compromise in the adoption and implementation of the EU law. As for the administration control, the EP has established controls of programme and system of appeals in direction to the Commission and its agencies. Public control of executive is displayed in Figure 1.

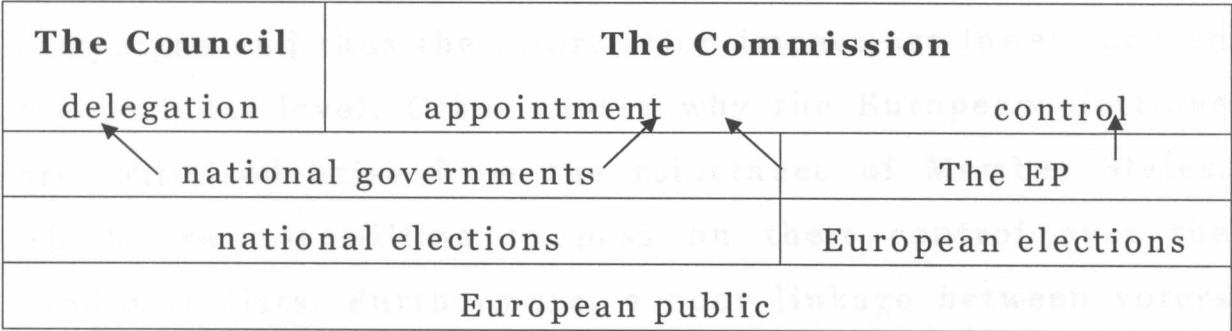
Lord (1998) offers two theories, according to which the authorization of the Council - Commission tandem can be achieved. Firstly, as the Council authorized by national elections is the last resort of decision-making process, the Commission does not need to be authorized though. Secondly, as the Commission is held for 'agent', it cannot largely differ

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<sup>13</sup> TEU, 1992, A158[2]

from its ‘principal’ the Council. As a result it shares the Council’s legitimacy. However, serious objections to these need to be presented. The agenda-setting role of the Commission takes into account the positions of Member States. It also makes use of its information advantage in the Union business and has a possibility of manipulating and influencing the state preferences in the formation process. The Commission can also mobilise non-state actors into the process, take advantage of strategic timing, and make profit of providing its services for the Council negotiations. All in all, “none of this proves that national elections are inherently incapable of authorizing the Union’s political leadership: the public (...) always has the opportunity to use national elections to articulate preferences on EU issues” (p. 30). From my point of view, Lord’s statement is too bold as the public is only able to vote on EU issues within the range of established left-right party division, and therefore, their ‘European preferences’ cannot be well captured by their national representatives.

**Figure 1: The public influence on the EU executive**



Coming to the public’s right to control the legislation, the two institutions come into the focus. The legislation

power is shared by the Council, whose legitimation stems from national election, and the directly elected EP. The public control of EP is executed by a universal direct suffrage. To this, a multitude of objections are presented. Providing the elections are one of a few European events, which the public widely registers, the malfunctioning and discrepancies are also well perceived by the European public. The European elections are often labelled 'second-order elections'. Under this unfavourable title, a complex of shortages is understood such as a relatively low voter's turnout (in comparison to national elections), voting on the national issues rather than the European ones, a remoteness from the concerns of electorate. Some reasons of these malfunctions are based institutionally. For instance, setting voting rules is left in the realm of Member States and thus, it varies state from state. The conciliation character of the negotiations in the EP prevents the traditional political cleavages from shaping the ideological views and so simplifying the voter's choice. As Hix (1999) argues, though the left-right division in the EP, it still acts as a cohesive and united institution, where rather than internal opposition, preference conflict with other institutions may appear. Moreover, expenditures on election campaigns and thus the information impact are lower than on the national level. Other causes why the European elections are criticised arise from the reluctance of Member States, which are not willing to pass on their control over the candidate lists. Furthermore, a poor linkage between voters and their representatives exacerbates the problem of EP's low prestige, which is, on one hand, largely linked to the technocratic nature of the Parliament decisions; on the other



hand, it stems from the remoteness of MEPs given by their extensive employment in the parliamentary work. The national governments do not devote a sufficient amount of attention to the European issues as they are not very motivated to do so. Voters then tend to vote on national issues and give signals to their respective governments throughout the electoral cycle. In sum, EP's 'attempt to strengthen its position' in the bargaining process *vis-à-vis* the Council and the Commission 'has probably been the Parliament's main preoccupation' (Hoskyns – Lambert In Richardson, 2001, p. 365).

Omitting the complaints on the account of EP's legitimacy, there are also two arguments against the Council legitimized by its Member States: first, the national elections mostly do not cover the European issues, therefore, national delegates lack a mandate to decide on them; and second, the legitimation of the whole Council requires, apart from the delegation of representatives of Member States, an added legitimation (Lord, 1998). Additionally, Héritier (2001) points out that if national preferences are formed in the deliberative process, which is often the case, this legitimation link is no more valid. On the other hand, Héritier's notion of mutual control among the Member States injects a control mechanism in the Council's negotiations as the States approach each other with distrust and circumspection. The Council is also often accused of being closed to the public. The very first pattern applied to the Council negotiations was a principle of confidentiality, under which the negotiations were not public. As the politicians have recognized the unacceptability of wide-arching opacity, reform provisions for the Council's legislative capacity were adopted in the



Amsterdam Treaty<sup>14</sup>. In present, the public has right to access to all documents of the Council with six exceptions<sup>15</sup>. The results of negotiations, explanations and minutes of Member States must be published; however, the documentation of the negotiation process, i.e. the positions of Member States, remains hidden. Heritiér (2001) recognizes a trade-off between legitimacy and efficacy in the Council. Supposing the negotiations were opened, the States would move with dealings to the backstage so that no positive effect would emerge.

The establishment of Ombudsman for the European Union has also significantly contributed to the promotion of the European dimension rendering the Union's polity more similar to a common political system. At the same time the institution of Ombudsman intermediates a new channel for Europeans to the polity and as a result reduces the democratic deficit. Further developing of Ombudsman's competence and increasing public awareness about it seems to be an appropriate instrument to support identification and improve channelling to the polity.

In judicial branch, the institution of the European Court of Justice has reported a considerable success in promoting the European dimension. As the instance of last resort, it naturally connects the citizens and the European level over the national states. As some affairs have been adopted as case law, the Court has proved capability of maintaining the continuity of the integration. Mayer and Palmowski (2004)

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<sup>14</sup> The Amsterdam Treaty (1997) Art. 207.

<sup>15</sup> These are defense, public order, monetary stability, international relations, protection of individual private lives, and professional confidentiality (Charter of fundamental rights, 2000).

point out the role of the ECJ in the management of European values.

In sum, the direct opportunities of public to influence the European decision-making remain embedded to the European elections. The indirect forms of participation encompass opportunities ranging from the activity in national politics (voting) to the possibility of engagement in non-governmental structures. After the analysis of democratic deficiencies and legitimacy limits, I will now present with potential reforms.

## **2. SEARCHING FOR REMEDY: THEORIES AND INSTRUMENTS**

In this part, different theoretical approaches, which are designed to address the overall legitimation question, will be presented. It should be noted that various scholars (Olsen, 2003; Lord – Magnette, 2004) suggested that substantial progress in developing theoretical background of democracy theories is needed.

### **2.1 Consociational representation**

As the supranational form of polity proved to be difficult to fully legitimize, an alternative approach – to take the Union as a consociational body – can be applied. Consociationalism requires cross-cutting societal divisions, which delegate to their elites the responsibility to negotiate and decide. Summarizing the conditions listed by Lord, the consociational politics necessitates: participation of all members in the highest stage of decision-making, exclusive

proportionality between nationalities in distribution of powers and posts, the institution of veto for each member, and autonomy in developing and preserving national political culture (1998, p. 46). Because of the decisive and chief role of the Council, the theory of consociationalism relates also to the Union. A notion of a strong role of Member States in the model recalls the intergovernmental view of the European Union.

As for the first condition, the Member States represent culturally and historically separate entities, which delegate their representatives to deal with the representatives of the other states. A veto right, which exists within the unanimity procedure, enables each Member State to block the negotiation, already applies to the intergovernmental second (CFSP) and third (JHA) pillars. Rather than deadlocking the negotiations in the Council, the informal norms force participants to compromise and reach the best result, which is widely acceptable for all sides. As Lord describes it: "(L)egitimacy is regarded as being proportional to the number of viewpoints that are satisfied, rather than something that can be claimed by the barest of majorities" (p. 47-48). The cultural autonomy is guaranteed by Treaty principle of subsidiarity.

As Lord notes, the concept of consociationalism can be either a solution to the democratic deficit in the EU, or it can be regarded only as a means to overcome one stage in the development toward a more democratic setting (p. 48). When assessing the implications of the consociational model applied in the European polity, a clear advantage lies in its ability to build consensus and preserve minority rights. On the other

hand, some serious objections are inherently rooted in the very essence of the model. First, rather than to democracy, consociationalism leads to oligarchy, which is a trade-off of finding consensus among different actors in politics and the unconditional loyalty of their fellow pillar members. Second, social cleavages are not likely to copy national borders; therefore, the representation does need to correspond with reality, which undermines the very grounds of the consociationalism. Moreover, all cleavages can be hardly captured by a Member-State based polity. Schmitter quoted in Lord calls it 'transversal cleavages' and names particularly "Euro-proletarians, Euro-professionals, Euro-consumers, Euro-environmentalists, Euro-feminists, Euro-regionalists, Euro-youth or just plain Euro-citizens" (1998, p. 50). He claims that along with the national representation, these cross-cutting groups need access to the political system and representation, which the consociational model is apparently not able to safeguard (*ibid*). It can be argued that such groupings often concentrate to form interest groups and use informal channels to enforce interests on the European stage, which, however, does not necessarily deliver an adequate level of representation. However, within the consociational model only the prearranged actors have access to the political arena and non-state actors, such as interest groups, rarely manage to infiltrate in the 'closed circles'.

Finally, Lord discovers a series of difficulties, which in his opinion are fatal to the 'pure form' of consociationalism to the European Union. First, as the non-state actors are prevented from entering the political arena, it could lead to abuse of political power by state actors, especially in

domestic politics, and consequentially to 'de-democratization of the nation-state' (p. 52). Second, he argues consociational setting is mutually exclusive with common rules of liberal democracy as it grants considerable power to a limited number of actors, and thus, deconstructs the system of checks and balances. Thirdly, the system is not capable of reacting to the changes in the electorate preferences. Rather than mutual interaction, there is a one-way trust to the elite, which is more approved than elected. All in all, the two implications of consociationalism, i.e. exclusion of non-state actors and failure to ensure proper representation, largely limit the chance of the model to solve the democratic deficit in the European Union.

## **2.2 Deliberative democracy**

A shift from a bargaining mode to a deliberative one is described by Habermas as a move from 'strategic' to 'communicative' action. The deliberative mode also signifies that the actors are not interested in gaining maximum profit, but that they search for collectively acceptable solutions. In other words, the intentions at a deliberative negotiation cannot only be driven by self-interest and egoism, but they must arise from general public needs. Basically, the deliberative process is led by the public debate, in which the preferences are 'learned' and 'alternated', rather than 'aggregated' (Eriksen - Fossum, 2000). The number of reasons and views, which has been accommodated in the final decision presented as 'common will', is the key of assessment (the higher, the better). The actors concentrate on what

should be done, instead of what they want to be done. Among the deliberative norms, Lord and Magnette name

a willingness to be persuaded, to give a hearing to all other points of view regardless of the number or power of their supporters, to understand why they are of value to those who hold them, and to state one's own arguments in a form that exposes their assumptions to challenges. (2004, p. 194)

Warleigh (2003) introduces a term of 'critical deliberativism', under which he understands: first, acknowledgement of a collection of 'liberal democratic ideas and structures'; second, functional logic at the macro-level; and third, participation patterns of the governance model at the micro-level.

In order to assess the appropriateness of the model, Lord and Magnette (2004) further note three objections against the deliberative mode of decision-making. First of all, a question of initial motives of actors to enter this negotiation pattern has to be resolved. A simple, but perhaps naive answer suggests that the commonly accepted norms and highly estimated values under deliberation would motivate actors to use this mode, no matter how their views differ. Secondly, it has to be further specified which form of deliberation out of the multitude available is the most suitable for the EU. As Rawls argues, the deliberative action can always discover the 'overlapping consensus'<sup>16</sup> between 'contradictory but equally reasonable' beliefs (p. 195). It is obvious, however, that the proposed solution is only applicable on a high level of abstraction. It cannot reliably deliver satisfactory outcomes to particular issues with only a weak link to the above-mentioned norms. Where the deliberative action should fail,

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<sup>16</sup> Among overlapping areas Lord and Magnette (2004) name democracy, human rights and the rule of law.

Rawls calls for holding and preserving the *status quo* for solution and accompanying institutions (Lord – Magnette, 2004). That would mean maintaining the ordinary representation model of elected representatives, which on the European level proves inadequate from three manifest reasons: the transnational nature and scale of the Union; weakly developed intermediation of interests (namely mass media and political parties); and a question mark about the borders of the Union. In relation to this, Majone argues that the Union as the multi-level governance (MLG) is well suited for the deliberative process. The MLG does not only provide a forum to deliberate on various, mutually independent, levels. Supposing a centre and subordinated units are absent in the MLG, it results in a self-driven process of quest for solutions, even though it can go on the account of the amount of decisions adopted (pp. 195-197).

The final and rather formal counterargument against the deliberative action suggests deficiencies of academic resources and an empirical theory analysing which institutions are necessary to introduce deliberation in the European decision-making process (*ibid*).

### **2.3 A model of (multi-level) governance**

A notion of 'governance' refers to a novel model of setting power relations and has been introduced to the academia about ten years ago. Despite having the same root as the term of 'government', governance goes beyond its ancestor. Under the governance system, the power has ceased to be confined to professional politicians and has spread



across the whole civil society. As the direct ways to legitimate the increasing influence on the lives of the European citizens have been exhausted, the public involvement in governing is extended to indirect forms of participation based on civic principle. It implies various features of civil society such as NGOs, interest groups, agencies, forums, etc., which gather sectoral interests and concentrate on enforcing them in the European decision-making process. Olsen (2003) distinguishes two sorts of non-state actors: (1) specialised and autonomous institutions, (2) open structures and policy networks. As for the latter, he emphasizes its crucial role in the promotion of legitimacy and points out their capacity to balance unity and diversity. In contrast to the traditional governmental channels, the qualities the non-state structures together creating the 'ordered complexity' are well described by the terms 'non-hierarchical', 'non-coercive', 'voluntary', 'flexible', or 'issue-oriented' (p. 97-8).

In relation to the European Union, a term of multi-level governance (MLG) appropriately applies<sup>17</sup>. It stems from the special status of the Union that oscillates between the federation and international organization. The other reason for a multi-level setting comes from a notion that the Union's role is rather regulatory than redistributive, which implies the bottom-top channelling, especially intermediated by non-state actors. According to Magnette (2005), the governance model is not a complex solution of the democratic deficit; rather than substitution the MLG can only complement current governing patterns, not provide a substitution.

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<sup>17</sup>The new system of governance has been labelled an 'open method of coordination' under the Lisboa Strategy in 2000.



Alongside the unequivocal positive effects on the level of participation, the MLG is not capable of overcoming existing legitimization deficiencies. First, it is not likely to enhance motivation of citizens to participate and so the pattern of elite involvement persists. While the scope of consultation is widened under the MLG, the system only accepts the organized interests. On the other hand, pressure and control generates profit for passive citizens as the accountability of institutions faces higher demand and is informally widened (p. 151). Second, the non-state actors exercise only a non-decisive ('soft') role by consultation and feedback provision, albeit the Commission claims to take their positions into account. Magnette finds it quite striking that next to the sectoral interests, a minimum space is left to covering (ideological) structures such as political parties (2005, p. 149). Third, the non-hierarchical and complex structure of MLG tends to produce opacity in question: who is accountable for decision (Olsen, 2003). Additionally, non-state actors need to defend their sphere of activity against a nation-state, whose sovereignty is dissolved as it becomes a part of the network of actors. The gradual transformation of the European polity is "a large-scale political experiment with an unknown outcome" (p. 105), however, it is assumed to be an appropriate design for the European politics.

#### **2.4 Proposals for provisions enhancing legitimacy**

So far I have dealt with solutions, which reinforce legitimacy on the European level in a kind of retroactive, or backward way. They were conceived as tools which *reinforce*

legitimacy in already present Union structures, but they did not manage to develop single instruments to create legitimacy. I will now explore the possibilities of introducing institutional measures, which improve present instruments and bring brand-new channels and procedures to combat the legitimacy deficit.

It has been suggested that the Council's willingness to inform about its decisions is, despite all the progress achieved, still limited and can be rejected in the name of confidentiality. Generating additional pressure on the Council to become more open would bring more legitimacy to it as a body. It can be achieved in several ways. From the top-down perspective, the Commission holds the power to do so. Moreover, a considerable progress could be attained on the national level providing the national governments strive to explain their positions and interests to the citizenry. In the opposite direction, the citizens can put pressure on the Council by requesting the information and explanations, which would expand the area accessible to public. Finally, the Council itself should realise the transparency need and take active position in vertical communication.

On the side of Member States, various steps to increase legitimation and public awareness can be adopted. For instance, Héritier (2001) argues that the information about the implementation process should be provided by Member States to the citizenry. Nevertheless, the national parliaments hold necessary powers to take an active position as mediators of the European affairs to the public. In this, clearer demarcation of spheres of activity for both kinds of parliaments would be useful.

The Commission, which is well aware of the weak public identification with the European issues, has executive powers to improve the information deficit and increase understanding of the Union. The extension of the access to information and the encouragement of the political engagement of citizens belong to key tools improving input legitimacy. Olsen correctly argues that the Commission is more active in the dimension of output legitimacy when it is concentrated on policy delivery (2003, p. 100). A potential target group of citizens by no means covers the overall citizenry. First, it must be admitted that not all citizens are able to participate because of insufficient resources or capabilities. Furthermore, from the number of those who are able to do so, only a part is willing to take action (p. 93). Not only should the Commission involve those already active citizens, but it is highly desirable to motivate other citizens by presenting the benefits of participation in the European level. Examples of the many ways to increase general awareness are information centres, discussions, public forums, educational programs, support of organizations arising from the civil society, etc.<sup>18</sup>

Another potential way of increasing the legitimacy rests in intensifying public trust in European institutions, which is to be achieved by extending transparency, propagating the institutional outputs and fostering the vertical link to the citizens. Olsen argues that "European citizens have not developed shared views on the normative authority of institutions and agents" and mostly have doubts about the institutions and their feedback possibilities (2003, p. 100).

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<sup>18</sup> From the recent Commission project the D-plan by M. Walstrom can be mentioned. The 'D' appropriately stands here for democracy, dialog and debate and has been introduced after the negative outcomes of Dutch and French referenda on 'Constitution Treaty' in 2005.

ideological polarization of the Parliament's scene could attract more public interest in the EP's dealings and simplify the choice of voters. Magnette (2005, p. 151) uses a term of 'continuous democracy' for a new electoral pattern required by the global evolution of politics. As for the output side, further strengthening of Parliament's powers (codecision procedure) and extending its jurisdiction are desirable. On the institutional level, a prospective lies in further strengthening the parliamentary powers, including the entitlement of the right for initiative.

Further adjustments should be applied to the area of Union's scope and principles. The development of the subsidiarity principle as the European value can facilitate the transformation of the national sovereignty if better legal basis for it is established (Warleigh, 2003). Further, the multi-level governance necessitates the adoption of the flexibility principle as a general practice on all levels available.

It has been explained that the non-state actors can contribute considerably to better legitimacy because of three basic reasons: first, they provide with an opportunity for public participation in the decision-making process; second, they have proved a capacity to put pressure on the accountability of European institutions; third, they contribute to general coordination of the decision-making process so rendering consensus. Therefore, further development from the bottom-top perspective (civil society) and a top-bottom support (European institutions) is highly desirable. As for the former, Europeans are supposed to realize the possibilities they hold in their hands. By participating in a process of

Pointing out the consensual and non-provocative nature of Commission's decisions, Magnette calls upon the Commission to introduce "pedagogic dramatization of politics" (2005, p. 153). According to him, politicizing the decision-making process in the Union, for instance by introducing majoritarian patterns to political discourse, would attract more public interest, stimulate civic mobilization and support transparency.

As far as the institutional ('hard') provisions are concerned, the Commission's mandate largely relies on the system to which the EU develops. The majority winner of EP elections is meant to form the Commission, in case of parliamentary setting; and the presidential model suggests a direct election of the Commission's President, or particular Commissioners. The Commission as a body is then supposed to work under the majoritarian pattern, bringing polarization, alternation and conflict in Commission's politics. Both scenarios, however, assume a pre-condition: a will of Member States to pass a part of their rights up to the Union.

A great deal can be also done on the side of the European Parliament. Recalling the notion of second-order elections, a wide area for improvement emerges. The vertical relation between citizens and the EP has to be strengthened. It may well be reached from the European so as from the national level. The extension of the link between MEPs and their electoral districts is likely to contribute to a better demarcation between the European and domestic issues. The national governments have the ability to better promote the European elections. Both steps are likely to reduce the deficiencies related to the European elections. Enhancing

constant reflexive discussion, they might independently find common values and define the rules for the regime in which they live. Warleigh points out Europeans 'deserve' a more democratic Union. However, he further states that it is their 'moral duty' to engage in process of political socialization and reconfigure their sense of belonging (2003, p. 129). As for the latter, it is highly advisable for the European politicians to come forward to them, but they can also assist in the process of generating European political culture by providing institutional means, such as favourable legal background, financial subsidies and law enforcement. Héritier (2001) states two elementary rights to be guaranteed: a right of information, and a right of complaint.

It must be borne in mind that there is no simple or unambiguous remedy or generally valid practice to increase legitimacy. Denying the idea of big-bang revolution in European structures, these measures are meant to be gradually introduced in a process of constant reflection. All suggested measures require fulfilment of a central precondition which implies that all actors are interested in taking steps to reforms. The attitude of Member States is viewed as being rather traditional, sovereignty defending and reluctant to make changes. Some scholars note that for the reforms to have a chance to succeed they must originate from the bottom, i.e. means from the popular opinion. Newman (In Richardson, 2001) doubts the importance of institutional changes; instead, he warns against privileging one of one element of the European polity and points out the need to ensure that democracy covers all levels of governing (from local to transnational). Thinking of Europeans in terms of a



community with common values takes us to the next part, where the issue of European identity will be discussed.

### **3. PUBLIC IDENTIFICATION ON THE EUROPEAN LEVEL**

#### **3.1 The European identity: what, why and how**

In the third part of paper I proceed to the issue, which is reflected by media, widely debated by scholars and also greatly perceived by the citizens of the European Union. Thus, among the questions, which will be discussed, I shall name: Does the EU need a common identity? If so, how is it conceived? What are the founding grounds and the possible ways to create a European nation? How far has the Union progressed in creating a common 'we-feeling'? What measures have been successful and what have (partially) failed? How do some scholars reflect this issue? And most essentially, is there a European *demos*<sup>19</sup> at all?

Why should we devote attention to this issue at all? How does it relate with the first part of this paper? Alongside with the political institutions and associated procedures, each political entity needs an elementary approval of those over whom it is authorized to rule. Therefore, the rulers strive for the creation of a 'common identity', which strengthens the ties of the ruled to the community and encourage their support of community authorities. The affiliation to a community brings its members certain rules. A classic contractual theory explains the emergence of state as a

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<sup>19</sup> Warleigh presents a definition of the European demos in words "a self-conscious body of citizens across the member states who consider the EU, and political engagement with both the Union and each other, as a natural course of action to be undertaken in order to secure their objectives" (2003, p. 122).

voluntary agreement between the elected authority and the citizens, which is mutually advantageous. Under the contract, the citizens enjoy the protection and support of the state and enjoy various rights, from which the right to elect and stand for elections is evidently the most important. In return, the state requires fulfilment of duties and compliance with binding rules. Generally, the most apparent way of legitimizing the authorities for the execution of their duties is the procedure of democratic election. In order to ensure that rules adopted by authorities will receive a public support, a sense of belonging in terms of general identification with the community and its acting must be developed. Although the decisions of the Union are binding from the principle, it does not necessarily mean the public widely accepts them. Therefore, as the European integration from the very onset was an elite-driven process, it now must find ways to re-build a common identity in order to justify and support its decisions. The need for public support increases with extending of Union's scope. The more it makes decisions affecting the lives of its citizens, the more it must demonstrate interest in the public preferences and consider their opinions. The support for the Union's actions does not replace the support for national authorities. It rather leads to a so called 'cognitive mobilization', which means the same amount of acknowledgement of importance for the national as for the European dimension of decision-making (Lord, 1998, p. 110).

Measures of the support are directly linked with the type of political setting (p. 107). Thus, the question of the existence and promotion of the European identity vitally



depends on the definition of itself. The legitimation standards vary from how much it has from a political system (and what kind?), of from an international organization (and how much cohesive?).

As van Ham argues, without creating a solid basement of whatever 'European identity', the progress of the integration process can be endangered through the loss of the public support, which could consequentially lead up to the halt of the process. It can be considered a general principle applied to any community building: without an overall support and elementary identification, the authority is seriously restrained in its abilities to authorize all of its actions. Van Ham simplifies the definition of the Europe's identity to "a certain level of societal cohesiveness and solidarity" (2000, p.4)

### 3.2 Classifying Identities

Keeping in mind the historic experience and the reality of contemporary globalized society, several conceptions of building a community identity are apparently applied. First, there is an identity, which is based ethnically or nationally and emphasizes common cultural heritage. It is also reported as *primordial*. It is also indicated as nationality based on *jus sanguinis*. Basically it means that the citizenship is determined by 'ethnic origin', 'ancestry' and 'blood-ties'<sup>20</sup>. The emergence of the ethnic nationalism, as van Ham truly notes, traces back to the times of the onset of a nation-state, which needed to make use the 'aggressive nationalism' to

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<sup>20</sup> As examples van Ham presents Germany and Poland (2000, p. 6, 14).

build a common feeling in a newly based statehood (2000, p. 6, 14). Lord notes several reasons why this concept cannot induce a transnational democracy: it is primarily an exclusive concept, which moreover denies rights of minorities and lacks any possibility to join the community without having ties to its members (1998, p. 115). Moreover, the concept would not be sustainable in a long term in a mass-sized European dimension.

Secondly, a utilitarian identity emerges because it is "useful to the public or to the key elites" (p. 116). Under this conception, the elites driven by self-interest gather to negotiate and create - on the basis of shared interest - a common identity of usefulness for all actors participating in the negotiations. As disadvantages of this conception Lord mentions that the mechanism only works until the interest changes and acting in self-interest does not allow ethic concerns in negotiations. The only benefit of this concept, as Lord views it, is the initial impetus for actors to come together to deal.

The third conception of the '*ephemeral*' or civic nationality rests on the civic basis and is related with a (post)modern era, where a traditional state fades away and so is the conventional nation-based identity building. Civic nationalism, based on so called *jus soli*, originates in the "willingness of (...) people to adhere to a certain set of civic values and rules"<sup>21</sup>.

Besides a theoretical insight and basis for the concept of European identity, van Ham also proposes a comprehensible

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<sup>21</sup> Among the states using this principle, van Ham names France and United States (van Ham, 2000, p. 6, 14).

way to the gradual creation of it. As he responsibly puts it, identity is a "dynamic process that requires enormous energy to maintain and that will never by (*sic.*) fully 'complete'" (2000, p. 14). Deliberating about the content European identity, van Ham states several underpinning pillars for it. A fragile substance as the European identity needs to rest on a "solid base of multiculturalism, acknowledging that cultural diversity is a permanent and valuable part of democratic political society" (2000, p. 5). He basically argues that the new European identity needs to be based on something else than a 'collective memory', a common sharing of historic knowledge. A suggested remedy in the creation of feeling of 'imagined community' is to build a new concept based on civic principles of citizenship where all members have the same rights and duties. They are not mutually bound by a collective memory, but a new civic 'we-feeling'. Additionally, the new values of such community are a support of communal solidarity, preserving cultural diversity and all-embracing respect for difference. One option in this identity politics suggested by van Ham implies the end of dwelling on our historic traits, memories and experience and to introduce a new future oriented perspective. Cited by van Ham, Bauman labels this a 'palimpsest identity' and explains it as "the kind of identity which fits the world in which the art of forgetting is an asset no less, if no more, important than the art of memorizing" (2000, p. 20).

Van Ham further summarizes the Union's progress in executing the identity politics:

Although the EU is unlikely to enforce such a collective process of forgetting, it does ask for a shift in allegiance and solidarity which ipso facto implies a weakened link between

citizens and 'their' nation-state (2000, p. 21).

Lord (1998), in contrast, indicates the concept of civic-based identity as very suitable for the identification on the European level. Apart from highlighting its reconciliation character, Lord presents three considerable objections. Firstly, the abstract form of values partially blocks finding of common positions. Secondly, finding of common position on the basis of shared values is rather a hopefully anticipated assumption than a reality. Finally, the civil identity is interconnected with the system although it should be defined independently in order to ensure an outer support (pp. 120-1). Van Ham also warns that a gradual shift in the process of creating the European identity may initiate a comeback of nationalism, support intolerance and promote the adherence with local or regional ideology groups (2000, p. 16).

Describing our attitude to the European level, van Ham introduces a term of 'political homelessness', which he describes as a loss of sense of belonging. Identities based on a collective national memory in nation-states are constantly undermined by growing effects of globalization and all attributes it involves, namely a global economy, influence of mass media, development of communication technologies, vanishing of boundaries, migration, etc. Concerning the dissolution of national identities, it should be mentioned that the European integration itself originated from the very onset on the basis of limitation of nationally based identity. As former British Commissioner Lord Cockfield quoted in van Ham notes "[t]he gradual limitation of national sovereignty is part of a slow and painful forward march of humanity" (2000, p. 12).

Coming back to different sorts of identities, the fourth concept is a reflective approach. Lord (1998) calls it the citizenship praxis and describes it as an identity which emerges from 'social practice' and meaning and their interaction. Among prerequisites of the reflexive identity, Lord quotes Gellner saying the identity must be based on "'shared idiom' rather than 'prejudged' loyalties and beliefs" (1998, p. 121). In other words, there are omnipresent norms and values on the background of every social interaction, which are to be again and again confirmed, enhanced and modified by practical experience. The adherence to the norms is rather voluntary and deliberated and brings solidarity to the social reality. As Lord (1998) puts it, such identity is envisaged as 'open', 'changeable', and 'negotiable'. Critique in the identification system is not considered a disallowed behaviour, but a favourable contribution to the constant reflection of identity. The reflexive approach is not only a conception of identity, which may apply to the European Union. It can also be considered a concrete means on the way of building the European *demos* and representing, therefore, the aim and the method of promoting the European identity at the same time.<sup>22</sup>

## **4. THE UNION'S QUEST FOR IDENTITY**

### **4.1 Building common identity**

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<sup>22</sup> Lastly, to complete the overview of nationality conceptions, the fifth and minor model of multiculturalism cannot be omitted. However, as van Ham notes, the model mostly applies to non-European countries as Australia and Canada (2000, p. 15).

As a concrete means to introduce a new civic based identity van Ham names communication between elites and European citizens. Among all, van Ham appreciates the efforts of the EU to institute common symbols for the European dimension such as the European flag, anthem, passports and currency. Despite many difficulties and malfunctioning, he emphasises that the meaning of 'European stars' is not only the very primal and obvious presentation, but that such symbols unconsciously build a common feeling of historicity, roots and belonging (2000, p. 31). Support of common European culture and promotion of the European dimension of education (exchange programmes on universities, the study of foreign languages) plays also an an important role in bulding identity. The accent on preserving cultural heritage serves two functions: „(1) to encourage a feeling of Europeanness and spiritual, emotional and intellectual belonging; and (2) to protect Europe's culture(s) from the “tidal waves” of globalization” (2000, p. 33). In other words, he is rather pessimistic about the ability of particular national cultures to survive the pressure of globalization and, therefore, points the unique chance of European integration to play a role of a prosecutor and preserver of cultural heritage.

#### **4.2 Current state of identification on the European Level**

Some scholars argue that there already is a sort of European identity. If so, how does it go together with already existing national identities? As set in the Amsterdam Treaty<sup>23</sup>, the newly based citizenship shall “complement and not replace

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23 The Amsterdam Treaty (1997) Art. 17 (ex 8).

national citizenship". It introduces a new perception of identification, which is not any more strictly bound to the nation-state, but rather accommodates multiple-tier identities. Opinion polls and researches<sup>24</sup> show that Europeans find it less and less difficult to relate themselves to more communities and are able to cascade their identities. The European identity, as Mayer and Palmowski argue, does not endanger the 'exclusivity of national identification'; it rather 'moderates it' (2004, p. 591). However, a question posed by Lord associates this concept: how would the public act in case of the conflict between national and European identity (1998, p. 111). When answering this question, we shall come back to the concept of 'cognitive mobilization', which suggests that unless the European public accepts the European arena as an important and irreplaceable part of polity, the Union will lose a contest between national and European identity.

Mayer and Palmowski (2004) point out that the European Union has achieved a situation in which the European Union has become a synonym for Europe, or the European continent. The EU has also mitigated internal nationalisms and competitiveness.

#### **4.3 Success reported: the European citizenship**

A clear and evident measure, which the EU has already adopted and developed and which has a practical form of European identity, is the European citizenship, although Koslowski describes it as "the least understood and most important aspect of the integration process" (1999, p. 155).

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<sup>24</sup> European Commission (2000).



Some scholars argue that the European citizenship remains a 'frozen' potential, whose benefits were not fully developed. The citizenship includes five main provisions: (1) a freedom of movement and settlement, (2) a right to vote and stand for elections in European and local elections in the place of current residence, (3) a right for diplomatic protection of any Member State, (4) a right to address to the Ombudsman, and (5) a petition right to the European Parliament. Olsen (2003) argues that the major benefit of the European citizenship lies in the fact that citizens themselves directly set the accountability criteria for European institutions, without the intermediation of their respective Member State.

Although these provisions might seem powerful instruments, their effects are diminished by implementation infringements. According to Hix (1999), the citizenship generates a tension as its transnational character undermines national sovereignty while using nation-state institutions to secure the citizenship standards. This could be seen as a reason why Member States may hesitate to implement regulations required to guarantee citizenship principles. Moreover, the ratio of non-nationals standing for European elections is relatively low. On the other hand, a principle of shared diplomatic protection helps to lower the amount of consulates in distant places and, thus, reduce costs of national states.

The European citizenship is not by its character a state citizenship, simply because the EU is not a state. It is rather a "novel form of multiple political membership that violates the logic of the classical system of nation states which is based on the principle that everyone belongs to a state and

preferably only one state" (Koslowski, 1999, p. 155). The new conception of citizenship goes beyond the state borders and, hence, contributes to further divergence between nationality and citizenship, which are less and less likely to coincide. The divergence caused by introduction of European citizenship may, however, help to create a new European transnational polity, which is a vague form under constant and intense deliberation. The significance of the European citizenship rests on the fact that it is a means of reducing democratic deficit by entitling new rights to citizens. Rather than decreasing the institutional side of democratic deficit, the impact of citizenship lies in a normative side as it brings more Europeans to the general recognition of the EU (Koslowski, 1999, p. 161). Koslowski is bald enough to label the European citizenship a "reservoir of legitimacy for the EU" (p. 165). Alongside with individual benefits and profits for the Union, the citizenship reinforces a sort of social solidarity or toleration directly required by its multiple character. Under the cover concept of belonging to the same (European) polity, nationality ceases to matter. As Koslowski puts it,

[t]his toleration is indicative of a further *ad hoc* evolution of the European polity towards some sort of European consociationalism, in which there are multiple overlapping *demos* and multiple access points of interest articulation at all levels of governance (1999, p. 172).

As far as extending of provisions of the European citizenship, there is no direct link that extended citizenship brings more legitimacy. The Union has rather to be very careful about provisions it further adopts. Introducing a right

of voting in local referendums for non-nationals is likely to lead to inequalities among nationals. Similarly, the right to initiate European referenda would establish advantages of smaller states over the bigger ones. A danger of such provision consists in the potential abuse by well-organized lobby and pressure groups (Koslowski, 1999). Considering citizenship a unifying principle in federations, it may seem that the EU tends to federal model. Such assumption cannot be fully denied, however, it is clear that the units constituting the Union are political, not territorial or only national, units. Hence, a comparison to any of existing federations is likely to fail.

All throughout, the citizenship, which is the major Commission's instrument in building legitimacy, represents a practical device that simplifies the everyday lives of Europeans and develops the sense of belonging to the European community. In conclusion, when considering the non-institutional or psychological side of the democratic deficit, Koslowski points out two essential aspects in the search for legitimacy. First, a theoretical background for legitimation lies in clear statement of norms and values to which Europeans should adhere. Second, the legitimation is linked to the practical execution of these norms and values. Achievements in realisation of both will determine the success of transformation of European polity into a novel political sphere.

## CONCLUSION

In the paper, two elementary issues were dealt: (1) what are the democratic deficiencies in the European institutions

and what theories and instruments are available to reduce and remove them, and (2) what is the link between the public and the European level and how it can be strengthened.

From the overview, which has been presented in the paper and which does not state any claims for completeness, it is more than clear that the European Union finds itself in an uneasy transformation period that corresponds to changes in global politics. It has been suggested that on the side of European democracy and legitimation, much serious malfunctioning and deficiencies await to be resolved. A new patterns of governing with the common denominators such as ,transparency', ,communication', ,reliability' and ,participation' has to be developed. The way to democracy appears to be long in terms of distance and time as well. A first step, an analysis of the situation and recognition of its significance, is currently on the stage, together with unsafe and fuzzy prospective outlooks. The solution is not supposed to be a single, straight and all-curing remedy, indeed, but rather an ongoing process of experiments, deliberation and reflection. The institutional reforms are condemned to balance between majoritarian decision-making, which increases efficiency, and consultation mode, which maintains diversity and protects minorities. The principles of flexibility and subsidiarity, if better developed, need to be accepted as elementary rules. Moreover, the key question accompanying the entire issue of democracy rests in the character of the European project, which by far determines the institutional changes. For now, the European integration does not tend to converge with standard criterions of established political regimes and even theoretical approaches (functionalism vs.

Intergovernmentalism). Instead, it is likely to develop a unique sort of political setting.

Furthermore, all actors shall take part in the process of the far-reaching societal transformation, which weakens traditional sovereignty patterns and replaces them with a civic identification. The newly constructed identity might use the citizenship praxis, as proposed by Lord (in section 3.2). On the other hand, abandonment of the tortuous journey to better democracy and welfare might have fatal effects not only on peoples in Europe, but on the European integration. Ignorance of public opinion, or needs and remaining locked in the categories of traditional national sovereignty, could eventually bring the integration to a halt.

As explained in the paper, common norms and values, after being redefined on the new basis of transnational civil society far away on nation-state and its sovereignty claims, involve the capacity to integrate and stiffen new communities. Among these values, respect to rights, preservation of diversity, mutual solidarity, and permanent dialogue are the most significant candidates to overcome the threshold of theoretical discourse and political parlance and become slowly a part of everyday life of Europeans. It needs to be clarified that single political steps without the context of other reforms do not have a great chance of success. A positive willingness to reforms and changes must spring from both directions. In order to deserve public support, authorities, be it local or European ones, must gradually shift from self-interested based attitude to a cooperative and deliberative pattern. In order to enjoy more democracy and effectiveness, citizens must recognize responsibilities

stemming from rights and liberties of (post)modern society and take action to make use of opportunities ahead. Thus, both sides face an ambitious challenge. Hopefully, it is worth trying.

The paper consists of 11 211 words and 62 180 characters (spacing excluded).

## RESUMÉ

Diese Bachelorarbeit beschäftigt sich mit dem Thema der Demokratie und der Identifikation mit der Europäischen Union. Im ersten Teil werden Institutionen und Entscheidungsprozesse der EU mit den Standardkriterien der Demokratie verglichen. Da es sich bei diesem Verfahren zeigt, dass es bei jeder Institution ein Demokratiedefizit gibt, müssen nachfolgend andere Kriterien verwendet werden. Dazu widmet sich der zweite Teil der Arbeit, in dem verschiedene Theorien und Vorschläge für eine Institutionsreform präsentiert werden. Zum Schluss können einige Ergebnisse gesetzt werden. Erstens hängen die demokratische Verwandlung sehr viel von den Reformswillen aller Akteure ab. Zweitens das System von 'multi-level governance' und die Kommunikationsnorm des 'deliberativism' können als die Unterstützungsprinzipien des Entscheidungsprozesses in der Union akzeptiert werden. Drittens jede Institution der EU muss mehr Raum für die Einführung der Demokratie, Transparenz und Legitimität suchen.

Im dritten und vierten Teil der Arbeit wird das Thema der gemeinsamen Europäischen Identität behandelt. An den verschiedenen Arten von der Identitätsbildung zeige ich, wie das Gefühl der Angehörigkeit zur Politikeinheit entsteht. Von den fünf Möglichkeiten werte ich das Prinzip der reflexiven Zivilidentifikation am besten aus. Daneben wird das Prinzip der Europäischen Bürgerschaft vorgestellt und ein hohes Integrationspotenzial darin gefunden. Trotz vieler Erfolge, die die EU in diesem Bereich schon erreichte, wird festgestellt, dass die Identität auf den Werten wie Vielfaltigkeit, Minderheitenprotektion, Diskussion und Teilnahme aufgebaut sollte.



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Questionable Identity for the European Union

European Identity and European Identity: A  
Questionable Identity for the European Union

## **Projekt bakalářské práce**

### **Democratic Deficit and European Identity as Questionable Issues in the European Union**

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The issues of democratic deficit and European identity represent one of the well-known drawbacks of the European Union. The significance of the issues arises with the obvious incapability of the EU to handle them efficiently. For instance, the negative outcomes of the referenda approving the constitutional treaty in France and the Netherlands confirm the urgency of the issues for the whole Europe, especially if there are associated candidate countries and the Turkey accession perspective. When discussing the issue, a difficulty to categorize the European Union in the system of international relations appears. It is referred as the *n=1 problem*, which means that the EU is *sui generis* and is incomparable to any other identity in the international relations.

In the Czech academic background, this issue is not dealt systematically so the intention of this paper is to provide an overview and prospective of the issue. I decided to use English as a language of this paper because of three main reasons. Firstly, I would like to present this paper when applying for a Master degree abroad. Furthermore, I am going to apply for the internship at the European Commission so this paper needs to be comprehensible. Last but not least, most of the sources are available in English so for a paper in English, quotations do not need to be translated.

This paper will consist of four main parts. Firstly, the issue of democratic deficit in the institutional framework will be defined, analyzed and summarized. Different approaches to the issue should be introduced and compared. One of them will be stated as a starting point of the discussion. Secondly, the relevancy of the concept of European identity will be examined. The views of different authors will be presented. Thirdly, potential practices of how to limit democratic deficit – such as the institutional reform – will be suggested and briefly discussed. Fourthly,

the public involvement in the decision-making process and the identification at the European level will be examined. In conclusion, the relevance of the each suggestion will be assessed in terms of applicability, feasibility and efficiency.

This paper involves two main objectives: first, to provide with a comprehensible insight into the issue; second, to devise instruments to increase accountability and legitimacy of the EU and enable the identification of the public. The method used in this paper will be a comparative analysis.

## **A proposal of the structure**

### **I. Introduction**

- a definition the terms
- the objectives of the paper
- the structure of the paper
- on democracy: brief criteria to categorize democratic organization

### **II. The institutional dimension of democratic deficit**

- the analysis of democratic deficiencies in the European institutional framework:
  - Commission (a control of powers, the appointment procedure, the accountability, etc.)
  - Council (QMV vs. unanimous voting, publicity of the negotiations, legitimacy of the comitology system, etc.)
  - European Parliament (so called "second-order elections", co-decision procedure, European party system, etc.)
- limitations of the decision-making process: implementation deficit, balance of powers, accountability of actors
- the role of national parliaments in the decision-making process
- transparency, unification and remoteness of the EU

### **III. European political identity: a closely related issue**

- a relevance of the terms European political identity and European demos
- definitions of the European identity
- public involvement in the decision-making process
- a concept of promoting the Union "closer to its citizens"

### **IV. Practices and reforms to limit democratic shortages in the EU**

- institutional reforms of the institutions, processes and procedures
- adjustments of the distribution of power
- a better public involvement
- an information supply and transparency of the European polity

### **V. Conclusions: a discussion of the prospects of suggested solutions** (political acceptability and efficiency)



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## **Projekt bakalářské práce**

### **Dodatek: zdůvodnění použití anglického jazyka**

## **Democratic Deficit and European Identity as Questionable Issues in the European Union**

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Při formulování tématu této bakalářské práce jsem se zvažila možné přínosy a problémy případného zpracování práce v anglickém jazyce. Důvodů, proč jsem se rozhodla bakalářskou práci v angličtině, je několik.

Za prvé jsou to osobní důvody. Ráda bych práci využila jako přílohu k přihlášce ke studiu v zahraničí. Dále bych tuto práci chtěla přiložit k přihlášce o stáž u institucí Evropské unie (Komise či Rada). V obou případech bude anglická verze této práce spíše zohledněna než její česká verze. Z pohledu akademického se domnívám, že téma přesahuje národní rámec a tedy i rámec jazykový. Většina dostupné literatury je ostatně psána v angličtině. Bude-li to nutné, mohu k práci dodat i resumé v českém jazyce.

Závěrem bych chtěla zdůraznit, že zpracování bakalářské práce v cizím jazyce je dobrovolnou iniciativou studenta. Student, jehož mateřským jazykem není angličtina, musí vynaložit větší úsilí na přesnou formulaci práce než student píšící v mateřském jazyce. Zároveň tím nepochybně zlepšuje své stylistické schopnosti v cizím jazyce.

*Czech version*

*English version*

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When considering the topic of the Bachelor thesis, I took into account potential benefits and drawbacks of writing in English. It resulted into several reasons in favour of the English version.

First of all, there are personal reasons. I would like to present this thesis when applying for a Master degree abroad. Furthermore, it should support my application for the internship at the institution of the European Union (Commission or Council). In both cases, the

English version is supposed to be accepted more easily than the Czech version. Secondly, I regard this issue as overranging the national level so it should not be confined to the language framework. The majority of the references is available in English only. If required, I can also provide with an abstract in Czech.

In conclusion, I would like to point out that conceiving the Bachelor thesis in another than native language is student's voluntary action. It requires more effort for precise formulation. At the same time, it improves writing skills in a foreign language.